

REMARKS

In view of the following remarks, reconsideration and withdrawal of the rejection set forth in the Final Office Action of November 25, 2005, are earnestly solicited.

Claims 4, 6—8, 12—14, 18 and 19 remain pending in the application.

Rejection Under 35 U.S.C. § 103

Claims 4, 6—8, 12—14, 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes et al (U.S. 5,970,475) in view of Yang (U.S. 2002/0120550 A1). The rejection is respectfully traversed.

In a first aspect of Applicants' invention set forth in independent Claim 18, a method of procuring goods and services through a computer based market center system (112 of Fig. 1 or 220 of Fig. 2) has a website accessible by a plurality of entities (110 of Fig. 1 or 214 of Fig. 2) via the Internet (116 of Fig. 1) and includes arranging with a plurality of suppliers (114 of Fig. 1 or 222 of Fig. 2), each having an Internet website, to participate in offering goods and services to the entities via the website of the market center system. (Paragraph 23, lines 1—6). The method further includes negotiating, with at least a subset of the suppliers, prices for their respective goods and services at which said entities can purchase the respective goods and services. (Paragraph 17, lines 3—10). The method further allows said entities (110 of Fig. 1 or 214 of Fig. 2) to place orders with any of the at least subset of suppliers (114 of Fig. 1 or 222 of Fig. 2) for respective goods and services via purchaser websites and the market center website. The method further allows said entities an option of obtaining via purchaser websites in the market center website a price quotation from any of the at

least subset of suppliers. (Paragraph 23, lines 10—14. Also, see Figs. 3a, 3b in conjunction with the specification at Paragraphs 24—28). Information is collected on said purchases made by said entities via said computer based market center system and on quotes received directly from said suppliers by said entities (step 338, Fig. 3b in conjunction with Paragraph 28, lines 5—8 and Fig. 5, step 526 in conjunction with Paragraph 33, lines 7—10) and analyzing said information at said computer based market center system. (Paragraph 21, lines 1—3. Also, see Fig. 4 in conjunction with the specification at Paragraph 29, lines 6—7). The method then determines if any of said quotes were for goods or services having a previously negotiated price and if so, whether said quotes for that good or service were at prices more favorable than said previously negotiated prices. (Fig. 4, step 416 in conjunction with Paragraph 29, lines 7—10. Also, see Fig. 5, step 528 in conjunction with Paragraph 33, lines 10—18).

In another aspect of the invention as set forth in Applicants' independent claim 19, a purchasing system for procuring goods and services bought by a plurality of entities having a common predetermined relationship includes a computer based market center having a market center website accessible by the entities via the Internet. (112 of Fig. 1 or 220 of Fig. 2). A plurality of supplier internet websites (114 of Fig. 1 or 222 of Fig. 2) each accessible by the entities via the market center website additionally forms part of the system. A database (transaction database 113 of Fig. 1) stores information concerning supplier prices and transactions entered into between the entities and suppliers associated with the supplier websites via the Internet. The market center computer is operative to analyze said transactions (see Paragraph 21, lines 1—3. Also, see Fig. 4 in conjunction with Paragraph 29, lines 1—7) to determine if any

involve purchases at prices more advantageous than the supplier prices for said goods or services stored in said database. (Fig. 4, step 416 in conjunction with Paragraph 29, lines 7—10. Also, see Fig. 5, step 528, in conjunction with Paragraph 33, lines 10—18). In responding to Applicants' argument of October 6, 2005, for the proposition that the Yang reference does not disclose analyzing transactions to determine whether a specific entity has negotiated a price better than that previously negotiated at the market center, the Examiner asserts that:

Yang not only discloses a report management system that comprises choosing the type of report wherein the type of report comprises for instance the enterprise balance report, the enterprise asset report, the enterprise working gross profit report, and the enterprise net profit report but also discloses that other types of reports can be generated (the foregoing list of reports is not restricting) which would certainly include a report analyzing transactions relative to previously negotiated prices or a report for determining if any of the quotes are at prices more favorable than a previously negotiated price or if any involve purchases at prices more advantageous than supplier prices for the goods or services stored in the system's database (page 5, [0079], lines 11—21).

This position essentially presumes inherency of Applicants' claimed limitation in Yang. (The inherent teaching of a prior art reference ... arises both in the context of anticipation and obviousness. In re Napier, 55 F.3d 610, 34 USPQ2d 1782 (Fed. Cir. 1995)). It is respectfully submitted that this allegation of the Examiner is mere speculation improperly using hindsight resort to Applicants' teachings. Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances does not establish inherency. In re Robertson, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. In re Rijckaert, 9 F.3d 1531, 28

USPQ2d 1955 (Fed. Cir. 1993).

Yang is not concerned with analyzing buyer negotiated prices with a prior market center negotiated advertised price to determine whether the market center should re-negotiate terms with a given supplier. There is simply no suggestion in Yang of this type analysis. Hence, the following limitation of independent claim 18 is not taught by the combination of cited references:

determining if any of said quotes were for goods or services having a previously negotiated price and if so, whether said quotes for that good or service were at prices more favorable than said previously negotiated prices.

Similarly, the following limitation of independent claim 19 is not taught by the cited combination of references:

said computer based market center is operative to analyze said transactions to determine if any involve purchases at prices more advantageous than the supplier prices for said goods or services stored in said database.

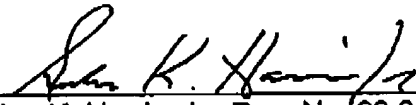
Since the content of the cited prior art does not teach all of the claim limitations, the Examiner has failed to establish a prima facie case of obviousness. Hence claim 18, its dependent claims 4, 6—8 and 12—14, and claim 19 are believed to be in condition for

allowance, early acknowledgment of which is requested.

Respectfully submitted,

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